

# **PART 10**

## **MARKET RESEARCH**

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[Entire Part revised by FAC 90-32]

[Note that “before” (or left) column on pages 10-2 and 10-3 is from previous Part 11]

### **PART 10—MARKET RESEARCH**

#### **Sec.**

#### **10.000 Scope of part.**

#### **10.001 Policy.**

#### **10.002 Procedures.**

**Authority:** 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

#### **10.000 Scope of part.**

This part prescribes policies and procedures for conducting market research to arrive at the most suitable approach to acquiring, distributing, and supporting supplies and services. This part implements requirements of 41 U.S.C. 253a(a)(1), 41 U.S.C. 264b, and 10 U.S.C. 2377.

#### **10.001 Policy.**

##### **(a) Agencies shall—**

**(1) Ensure that legitimate needs are identified and trade-offs evaluated to acquire items which meet those needs;**

##### **(2) Conduct market research appropriate to the circumstances—**

**(i) Before developing new requirements documents for an acquisition by that agency;**

**(ii) Before soliciting offers for acquisitions with an estimated value in excess of the simplified acquisition threshold; and**

**(iii) Before soliciting offers for acquisitions with an estimated value less than the simplified acquisition threshold when adequate information is not available and the circumstances justify its cost; and**

##### **(3) Use the results of market research to—**

**(i) Determine if sources capable of satisfying the agency's requirements exist;**

**(ii) Determine if commercial items or, to the extent commercial items suitable to meet the agency's needs are not available, nondevelopmental items are available that—**

**(A) Meet the agency's requirements;**

**(B) Could be modified to meet the agency's requirements; or**

**(C) Could meet the agency's requirements if those requirements were modified to a reasonable extent;**

**(iii) Determine the extent to which commercial items or nondevelopmental items could be incorporated at the component level;**

**(iv) Determine the practices of firms engaged in producing, distributing, and supporting commercial items, such as terms for warranties, buyer financing, maintenance and packaging, and marking; and**

**(v) Ensure maximum practicable use of recovered materials (see Subpart 23.4) and promote energy conservation and efficiency.**

**(b) When conducting market research, agencies should not request potential sources to submit more than the minimum information necessary.**

## 10.002 Procedures.

*FAR as of FAC 90-25*

*FAR as revised*

### ~~11.003 General.~~

~~Acquisition of commercial products begins with a description of the Government's needs stated in functional terms in sufficient detail so that market research and analysis can be used to help determine whether commercial products, distribution systems, and logistics support are available to fill those needs.~~

### ~~11.004 Market research and analysis.~~

~~(a) General.~~ Once the Government's needs have been functionally described, market research and analysis shall be conducted to ascertain the availability of commercial products to meet those needs and to identify the market practices, including warranty terms, of firms engaged in producing, distributing, and supporting these products.

~~—(b) Requirements.~~ Agencies shall conduct market research and analysis as needed to ensure full and open competition and that the Government's needs are met in a cost-effective manner. The extent of market research and analysis will vary depending upon such factors as urgency, estimated dollar value, complexity, and past experience.

~~—(c) Developing information.~~ Market research and analysis involves obtaining the following information, as appropriate:

~~—(1) The availability of products suitable, as is or with minor modification, for meeting the need.~~

~~—(2) The terms and conditions and warranty practices under which commercial sales of the products are made.~~

**(a) Acquisitions begin with a description of the Government's needs stated in terms sufficient to allow conduct of market research.**

**(b) Market research is then conducted to determine if commercial items or nondevelopmental items are available to meet the Government's needs or could be modified to meet the Government's needs.**

**(1) The extent of market research will vary, depending on such factors as urgency, estimated dollar value, complexity, and past experience. Market research involves obtaining information specific to the item being acquired and should include—**

**(i) Whether the Government's needs can be met by—**

**(A) Items of a type customarily available in the commercial marketplace;**

**(B) Items of a type customarily available in the commercial marketplace with modifications; or**

**(C) Items used exclusively for governmental purposes;**

**(ii) Customary practices regarding customizing, modifying or tailoring of items to meet customer needs and associated costs;**

**(iii) Customary practices, including warranty, buyer financing, discounts, etc., under which commercial sales of the products are made;**

~~—(3) The requirements of controlling laws and regulations.~~

~~—(4) The number of sales and length of time over which they must occur to provide reasonable assurance that a particular product is reliable.~~

~~—(5) The distribution and support capabilities of potential suppliers, including alternative arrangements and cost estimates.~~

~~—(6) The potential cost of modifying commercial products to meet particular needs, if required.~~

~~—(d) *Information sources.* The information described in paragraph (c) above may be acquired from the following sources, among others:~~

~~—(1) Source lists for items of a similar nature maintained at contracting activities.~~

~~—(2) Catalogs published by manufacturers, distributors, and dealers.~~

~~—(3) Informational requests for quotations.~~

~~—(4) Responses to advance notices and solicitation synopses published in Commerce Business Daily.~~

~~—(5) GSA Federal Supply Schedules.~~

~~—(6) Other Federal agencies.~~

**(iv) The requirements of any laws and regulations unique to the item being acquired;**

**(v) The availability of items that contain recovered materials and items that are energy efficient;**

**(vi) The distribution and support capabilities of potential suppliers, including alternative arrangements and cost estimates; and**

**(vii) Size and status of potential sources (see Part 19).**

**(2) Techniques for conducting market research may include any or all of the following:**

**(i) Contacting knowledgeable individuals in Government and industry regarding market capabilities to meet requirements.**

**(ii) Reviewing the results of recent market research undertaken to meet similar or identical requirements.**

**(iii) Publishing formal requests for information in appropriate technical or scientific journals or business publications.**

**(iv) Querying Government data bases that provide information relevant to agency acquisitions.**

**(v) Participating in interactive, on-line communication among industry, acquisition personnel, and customers.**

**(vi) Obtaining source lists of similar items from other contracting activities or agencies, trade associations or other sources.**

**(vii) Reviewing catalogs and other generally available product literature published by manufacturers, distributors, and dealers or available on-line.**

**(viii) Conducting interchange meetings or holding presolicitation conferences to involve potential offerors early in the acquisition process.**

**(c) If market research indicates commercial or nondevelopmental items might not be available to satisfy agency needs, agencies shall reevaluate the need in accordance with 10.001(a)(3)(ii) and determine whether the need can be restated to permit commercial or nondevelopmental items to satisfy the agency's needs.**

**(d)(1) If market research establishes that the Government's need may be met by a type of item or service customarily available in the commercial marketplace that would meet the definition of a commercial item at Subpart 2.1, the contracting officer shall solicit and award any resultant contract using the policies and procedures in Part 12.**

**(2) If market research establishes that the Government's need cannot be met by a type of item or service customarily available in the marketplace, Part 12 shall not be used. When publication of the notice at 5.201 is required, the contracting officer shall include a notice to prospective offerors that the Government does not intend to use Part 12 for the acquisition (see 5.207(e)(4)).**

**(e) Agencies should document the results of market research in a manner appropriate to the size and complexity of the acquisition.**